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## FACSIMILE COVER SHEET

**DATE:** June 9, 2005  
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**TO:** Examiner Oanh Duong  
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**COMPANY:** USPTO  
**FROM:** Gero G. McClellan  
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**ORIGINAL TO FOLLOW?** ☐ YES ☒ NO

### RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF DATED MAY 24, 2005

**U.S. SERIAL NO.:** 09/630,976  
**FILING DATE:** August 2, 2000  
**INVENTOR:** Bates et al.  
**EXAMINER:** Oanh Duong  
**GROUP ART UNIT:** 2155  
**CONFIRMATION NO.:** 7828

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**PATENT**  
Atty. Dkt. No. ROC820000102US1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:  
Bates et al

**Serial No.:** 09/630,976

**Confirmation No.: 7828**

**Filed: August 2, 2000**

**For: Time-Based Browser Configurations**

**MAIL STOP Appeal Brief - Patents**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

www.pearsoned.com

**Group Art Unit: 2155**

**Examiner:** Duong, O.

**CERTIFICATE OF MAILING**  
**37 CFR 1.8**

I hereby certify that this correspondence is being deposited on June 9, 2005 with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

June 9, 2005  
Date

**Garo G. McClellan**

**Dear Sir:**

**RESPONSE TO NOTIFICATION OF  
NON-COMPLIANT APPEAL BRIEF DATED MAY 24, 2005**

Applicants submit this Response to Notification of Non-Compliant Appeal Brief dated May 24, 2005. Applicants filed an original Appeal Brief to the Board of Patent Appeals and Interferences on July 26, 2004, appealing from the decision of the Examiner of Group Art Unit 2155 dated March 15, 2004, finally rejecting claims 1, 3-10, 12-18 and 26-30. A first Notice of Non-Compliant Appeal Brief was mailed by the Examiner October 27, 2004 stating that the original Appeal Brief was non-compliant with 37 CFR 1.192(c). Applicants filed an Amended Appeal Brief in compliance with 37 CFR 1.192(c) on November 8, 2004.

Applicants subsequently received the second Notice of Non-Compliant Appeal Brief dated May 24, 2005. In the second Notice, Examiner states that Applicant must file an amended brief in compliance with 37 CFR Sec. 41.37. However, the "Clarification of the Effective Date Provision in the Rules of Practice before the Board of

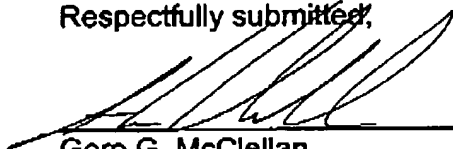
Patent Appeals and Interferences" (See 1287 O.G. 66, October 12, 2004) contains the following pertinent language:

*Question 6. If an appeal brief filed before the effective date of September 13, 2004 fails to comply with the content and format requirements of Sec. 1.192 and the Office mails appellant a Notice that correction is required, would an amended appeal brief filed on or after the effective date be required to be in compliance with Sec. 41.37(c)?*

*No, an amended appeal brief, based on an appeal brief originally filed prior to September 13, 2004, would be acceptable if it complies with either former Sec. 1.192 or Sec. 41.37(c), regardless of when the Office mailed a Notice requiring correction of the noncompliant appeal brief. (1287 O.G. 66, October 12, 2004, emphasis added)*

Here, Applicants filed the original Appeal Brief on July 26, 2004, before September 13, 2004, the effective date of the Rules of Practice before the Board of Patent Appeals and Interferences. Therefore, the Amended Appeal Brief may comply with either former Sec. 1.192 or Sec. 41.37(c) per the rule cited above. Applicants submit the Amended Appeal Brief filed November 8, 2004 is at least compliant with former Sec. 1.192. Accordingly, Applicants respectfully request withdrawal of the Notice of Non-Compliant Appeal Brief.

Respectfully submitted,



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